

**BOARD OF APPEALS CASE NO. 5299**

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**BEFORE THE**

**APPLICANT: Vasile Sbengheci**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow a 6 foot high  
fence within the front yard; 1302 Darley Court,  
Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 10/16/02 & 10/23/02**

**HEARING DATE: November 25, 2002**

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**Record: 10/18/02 & 10/25/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Vasile Sbengheci, is requesting a variance, pursuant to Section 267-24B(1) of the Harford County Code, to allow a fence to exceed 4 feet in height (6 feet existing) within the front yard in an R3/COS District.

The subject parcel is located at 1302 Darley Court, Bel Air, MD 21015 and is more particularly identified on Tax Map 49, Grid 1D, Parcel 318, Lot 11. The parcel consists of 0.436± acres, is zoned R3/COS - Urban Residential with Conventional Open Space, and is entirely within the Third Election District.

Mr. Steve Bauers appeared on behalf of the Applicant. The witness is employed by Long Fence and testified that the existing fence is 6 feet high and was constructed in 1997. The property is a double frontage lot, facing Darley Court to the front and MD Route 22 (Churchville Road) to the rear. The parcel is within the Greenbrier Hills subdivision. There is an existing row of evergreens that screen the property and fence from Churchville Road. The witness indicated that 6 feet is the minimum height that allows both privacy and security necessary because of the proximity to Churchville Road. The adjacent home was a developer's model and that current homeowner also wants a 6-foot high fence for the same reasons as this Applicant. In the opinion of the witness, the height of the fence does not result in any adverse impacts to adjoining properties, the surrounding neighborhood or impact the intent of the Code.

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Mr. Anthony McClune appeared as representative of the Department of Planning and Zoning. Mr. McClune agreed that the parcel was unique because it is subject to a double front yard configuration that is unusual in Harford County. Churchville Road is designated a principal arterial road; therefore, the setback is 60 feet. Because of these Code provisions, more recent developments have provided a 10 foot buffer strip between the road and existing residences which reduce the need for the variance required by this Applicant. If this developer had provided the 10-foot buffer as other developers have done, the fence could exist as is at 6 feet in height without the need for a variance. The visual impact would be no different than it is today as the property line setbacks would be lines on paper only. The Department considered the request minor in nature with no impact on the intent of the Code and found that no adverse impacts to adjoining properties would result from approval.

No persons appeared in opposition to this request.

### **CONCLUSION:**

The Applicant, Vasile Sbengheci, is requesting a variance pursuant, to Section 267-24B(1) of the Harford County Code, to allow a fence to exceed 4 feet in height (6 feet existing) within the front yard in an R3/COS District.

Harford County Code Section 267-24B(1) provides:

“Exceptions and modifications to height requirements.

Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.”

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**Harford County Code Section 267-11 permits variances and provides:**

**The Harford County Code, pursuant to 267-11 permits variances and provides:**

**“Variances from the provisions or requirements of this Code may be granted if the Board finds that:**

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

**Based on the testimony of the Applicant’s witness and the Department of Planning and Zoning, the Hearing Examiner concludes that the property is topographically unique and that it is this uniqueness that gives rise to the request for a variance. There is no evidence that the additional height of the fence results in any adverse impact to adjoining properties, properties in the surrounding neighborhood or has a material impact on the purpose of the Code provisions. Other property owners on similarly situated parcels have solved the need for a variance because their developer included a 10 foot buffer strip between residential lots and roads. The result is a paper boundary that results in no visual change to the parcel at all.**

**For the foregoing reasons, the Hearing Examiner recommends approval of the subject request.**

**Date DECEMBER 26, 2002**

**William F. Casey  
Zoning Hearing Examiner**